



House of Representatives

File No. 809

General Assembly

January Session, 2017

(Reprint of File No. 67)

Substitute House Bill No. 5925
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 31, 2017

AN ACT CONCERNING THE INSPECTION OF SHIPMENTS OF ALCOHOLIC LIQUOR AND PENALTIES FOR INTENTIONAL VIOLATIONS OF THE ALCOHOLIC LIQUOR MINIMUM BOTTLE LAW

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2017*) In addition to the penalties
2 otherwise provided in title 30 of the general statutes, any holder of a
3 retail permit issued pursuant to said title who intentionally sells
4 alcoholic liquor at a price that is not authorized by section 30-68m of
5 the general statutes shall: (1) Have engaged in an unfair or deceptive
6 act or practice in the conduct of trade or commerce in violation of
7 section 42-110b of the general statutes and be subject to enforcement
8 actions and civil penalties under chapter 735a of the general statutes,
9 (2) have each permit held by such holder suspended for ten days by
10 the Department of Consumer Protection, and (3) be fined not less than
11 five thousand or more than ten thousand dollars per day that such
12 intentional selling of alcoholic liquor occurs.

13 Sec. 2. (NEW) (*Effective July 1, 2017*) Any person who advertises the
14 price of alcoholic liquor as being other than that permitted under

15 section 30-68m of the general statutes shall have engaged in an unfair
 16 or deceptive act or practice in the conduct of trade or commerce in
 17 violation of section 42-110b of the general statutes and shall be fined
 18 not less than five thousand or more than ten thousand dollars per day
 19 for each day of such violation.

20 Sec. 3. (NEW) (*Effective from passage*) (a) No alcoholic liquor shall be
 21 sold or delivered by any wholesaler or manufacturer permittee except
 22 from such wholesaler's or manufacturer's permit premises, unless the
 23 wholesaler or manufacturer permittee has first received and
 24 inventoried the alcoholic liquor, which shall be unloaded from the
 25 delivery truck and come to rest in the warehouse facility of such
 26 wholesaler or manufacturer before being shipped to a retailer directly.
 27 The Commissioner of Consumer Protection or his or her authorized
 28 agent may inspect such wholesaler's or manufacturer's permit
 29 premises, books and records to ensure compliance with the provisions
 30 of this section. Notwithstanding the foregoing, the provisions of this
 31 section shall not apply to the sale, delivery or shipment of wine by a
 32 farm winery pursuant to subsection (a) of section 30-18 of the general
 33 statutes or to the holder of an out-of-state small winery shipper's
 34 permit for wine issued pursuant to section 30-18a of the general
 35 statutes.

36 (b) Any person who violates the provisions of subsection (a) of this
 37 section shall have engaged in an unfair or deceptive act or practice in
 38 violation of section 42-110b of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2017</i>	New section
Sec. 2	<i>July 1, 2017</i>	New section
Sec. 3	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Consumer Protection, Dept.	GF - Potential Revenue Gain	less than 50,000	less than 50,000
Department of Revenue Services	GF - Potential Revenue Loss	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential revenue gain of less than \$50,000 and minimal potential revenue loss, in both FY 18 and 19.

The potential revenue gain is the result of a \$50,000 fine imposed for intentional violations of the alcoholic liquor minimum bottle law. The bill also requires a fine of \$5,000 to \$10,000 on retailers that advertise alcohol prices below the level allowed by the same law.

The potential revenue loss is caused by the second penalty for an intentional violation of minimum bottle pricing, a ten-day alcohol sales permit suspension.

Currently no alcohol retailer is intentionally violating the minimum bottle pricing law or advertising alcohol prices below the legal level.

The bill also allows Department of Consumer Protection (DCP) inspection of alcoholic liquor wholesaler or manufacturer premises, books, and records, which has no fiscal impact as DCP may already

perform such inspections. Inspection is to ensure compliance with the bill's wholesaler and manufacturer inventory and product unloading requirements, which are also in regulation.

House "A" eliminates the underlying bill's potential significant cost by changing the inspection described above from a requirement without an agency specified, to something that is allowed and assigned to DCP. It also makes a clarifying change that has no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and state agency efforts to enforce the bill.

OLR Bill Analysis**sHB 5925 (as amended by House "A")******AN ACT CONCERNING THE INSPECTION OF OUT-OF-STATE SHIPMENTS OF ALCOHOLIC LIQUOR AND PENALTIES FOR INTENTIONAL VIOLATIONS OF THE ALCOHOLIC LIQUOR MINIMUM BOTTLE LAW.*****SUMMARY**

This bill establishes additional penalties for certain alcoholic liquor pricing violations for retail permittees. Specifically, it adds penalties for any retail permittee (e.g., package or grocery store) that (1) intentionally sells alcoholic liquor below the state-authorized price (see BACKGROUND) or (2) advertises the price of alcoholic liquor as being below such allowable price.

The bill also generally codifies the existing requirement, currently in regulations, that manufacturers and wholesalers inventory and unload alcohol they receive from delivery trucks into their warehouses. It also authorizes the Department of Consumer Protection (DCP) to inspect the premises, books, and records to ensure compliance and adds a penalty for violations.

*House Amendment "A" (1) modifies the alcoholic liquor unloading requirement to generally align it with an existing DCP regulation; (2) allows certain DCP inspections; (3) exempts certain small, out-of-state wineries from the inspection provision; (4) adds a penalty for violating unloading and inspection provisions; and (5) makes a technical change.

EFFECTIVE DATE: July 1, 2017 for the new penalties and upon passage for the inspection provisions.

PRICING VIOLATIONS

Under the bill, retail permittees that violate the bill's pricing provisions are deemed to have committed an unfair or deceptive trade practice (CUTPA, see BACKGROUND) violation and are subject to a fine of between \$5,000 and \$10,000 for each day of such violation. DCP must also suspend, for 10 days, a permittee that intentionally sells below the authorized price.

By law, a violator of the minimum pricing laws is subject to a fine of up to \$1,000, up to a year imprisonment, or both (CGS § 30-113). DCP may also accept from permittees offers in compromise in lieu of suspension (CGS § 30-58a).

UNLOADING AND INSPECTING ALCOHOL SHIPMENTS

The bill generally codifies the existing regulation that prohibits wholesaler and manufacturer permittees from selling or delivering alcoholic liquor unless they first receive, inventory, and unload the product into their warehouse before shipping to a retailer (Conn. Agencies Regs., § 30-6-B9). Under the bill, the DCP commissioner or her authorized agent may inspect such wholesaler or manufacturer's permit premises, books, and records to ensure compliance. Violators are deemed to have committed a CUTPA violation.

The bill's unloading and inspection requirements do not apply to the sale, delivery, or shipment of wine delivered by (1) an out-of-state shipper's permittee for alcoholic liquors that operates a farm winery or (2) out-of-state small winery shipper's permit for wine. By law, both of these permittees must annually produce less than 100,000 gallons of wine.

BACKGROUND

Minimum Pricing

With one exception, state law prohibits retailers that sell alcoholic liquor for off-premises consumption to sell "below cost." The exception allows retailers to sell one item a month below cost but not for less than 90% of the cost. The law also establishes different

formulas for calculating “cost”: one for beer and one for spirits and wine (CGS § 30-68m).

CUTPA

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney’s fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/07/2017)